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SENATE BILL 871

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

CYNTHIA NAVA

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO TAXATION; EXPANDING ELIGIBILITY FOR AND INCREASING
THE AMOUNT OF THE INCOME TAX CREDIT FOR EXPENSES INCURRED FOR
CHILD DAY CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-18.1 NMSA 1978 (being Laws 1981,
Chapter 170, Section 1, as amended) is amended to read:

"7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY
CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT
INDIGENCY. --

A. As used in this section:

(1) "caregiver" means a corporation or an
individual eighteen years of age or over who receives
compensation from the resident for providing direct care,
supervision and guidance to a qualifying dependent of the

1 resident for less than twenty-four hours daily and includes
2 related individuals of the resident but does not include a
3 dependent of the resident;

4 (2) "cost of maintaining a household" means the
5 expenses incurred for the mutual benefit of the occupants
6 thereof by reason of its operation as the principal place of
7 abode of such occupants, including property taxes, mortgage
8 interest, rent, utility charges, upkeep and repairs, property
9 insurance and food consumed on the premises. "Cost of
10 maintaining a household" shall not include expenses otherwise
11 incurred, including cost of clothing, education, medical
12 treatment, vacations, life insurance, transportation and
13 mortgages;

14 (3) "dependent" means "dependent" as defined by
15 Section 152 of the Internal Revenue Code, as that section may be
16 amended or renumbered, but also includes any minor child or
17 stepchild of the resident who would be a dependent for federal
18 income tax purposes if the public assistance contributing to the
19 support of the child or stepchild was considered to have been
20 contributed by the resident;

21 (4) "disabled person" means a person who has a
22 medically determinable physical or mental impairment, as
23 certified by a licensed physician, that renders such person
24 unable to engage in gainful employment;

25 (5) "gainfully employed" means working for

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1 remuneration for others, either full time or part time, or
2 self-employment in a business or partnership; and

3 (6) "qualifying dependent" means a dependent
4 under the age of fifteen at the end of the taxable year who
5 receives the services of a caregiver.

6 B. Any resident who files an individual New Mexico
7 income tax return and who is not a dependent of another taxpayer
8 may claim a credit for child day care expenses incurred and paid
9 to a caregiver in New Mexico during the taxable year by such
10 resident if the resident:

11 (1) singly or together with a spouse furnishes
12 over half the cost of maintaining the household for one or more
13 qualifying dependents for any period in the taxable year for
14 which the credit is claimed;

15 (2) is gainfully employed for any period for
16 which the credit is claimed or, if a joint return is filed, both
17 spouses are gainfully employed or one is disabled for any period
18 for which the credit is claimed;

19 (3) compensates a caregiver for child
20 day care for a qualifying dependent to enable such resident
21 together with his spouse, if any and if not disabled, to be
22 gainfully employed;

23 (4) is not a recipient of public assistance
24 under a program of [~~aid to families with dependent children~~]
25 temporary assistance to needy families during any period for

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1 which the credit provided by this section is claimed; and

2 (5) has a modified gross income, including
3 child support payments, if any, of not more than the annual
4 income that would be derived from earnings at [~~double~~] triple
5 the federal minimum wage.

6 C. The credit provided for in this section shall be
7 forty percent of the actual compensation paid to a caregiver by
8 the resident for a qualifying dependent not to exceed [~~four~~
9 ~~hundred eighty dollars (\$480)~~] six hundred dollars (\$600) for
10 each qualifying dependent or a total of [~~one thousand two~~
11 ~~hundred dollars (\$1,200)~~] one thousand five hundred dollars
12 (\$1,500) for all qualifying dependents for a taxable year. For
13 the purposes of computing the credit, actual compensation shall
14 not exceed [~~eight dollars (\$8.00)~~] ten dollars (\$10.00) per day
15 for each qualifying dependent.

16 D. The caregiver shall furnish the resident with a
17 signed statement of compensation paid by the resident to the
18 caregiver for day care services. Such statements shall specify
19 the dates and the total number of days for which payment has
20 been made.

21 E. If the resident taxpayer has a federal tax
22 liability, the taxpayer shall claim from the state not more than
23 the difference between the amount of the state child care credit
24 for which the taxpayer is eligible and the federal credit for
25 child and dependent care expenses the taxpayer is able to deduct

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1 from federal tax liability for the same taxable year; provided,
2 for first-year residents only, the amount of the federal credit
3 for child and dependent care expenses may be reduced to an
4 amount equal to the amount of federal credit for child and
5 dependent care expenses the resident is able to deduct from
6 federal tax liability multiplied by the ratio of the number of
7 days of residence in New Mexico during the resident's taxable
8 year to the total number of days in the resident's taxable year.

9 F. The credit provided for in this section may be
10 deducted from the taxpayer's New Mexico income tax liability for
11 the taxable year. If the credit exceeds the taxpayer's income
12 tax liability, the excess shall be refunded to the taxpayer.

13 G. A husband and wife maintaining a household for
14 one or more qualifying dependents and filing separate returns
15 for a taxable year for which they could have filed a joint
16 return:

17 (1) may each claim only one-half of the credit
18 that would have been claimed on a joint return; and

19 (2) are eligible for the credit provided in
20 this section only if their joint modified gross income,
21 including child support payments, if any, is not more than the
22 annual income that would be derived from earnings at [double]
23 triple the federal minimum wage."

24 Section 2. APPLICABILITY. --The provisions of this act
25 apply to taxable years beginning on or after January 1, 1997.

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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5 March 14, 1997
6

7 Mr. President:
8

9 Your WAYS AND MEANS COMMITTEE, to whom has been
10 referred
11

12 SENATE BILL 871
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 FINANCE COMMITTEE.
17

18 Respectfully submitted,
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22 _____
23 Carlos R. Cisneros, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Duran, Jennings, McSorley, Wilson

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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5 March 17, 1997
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7 Mr. President:
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9 Your FINANCE COMMITTEE, to whom has been referred
10

11 SENATE BILL 871
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS.
15

16 Respectfully submitted,
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18 _____
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21 Ben D. Altamirano, Chairman
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25 Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Ingle, Lyons, McKibben, Smith

Absent: None

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